IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.5489 OF 2005

The Dy.Commissioner of Income-tax ..Petitioner.

V/s.

Income Tax Appellate Tribunal & Anr. ..Respondents.

Mr.Ashok Kotangale for petitioner.

Mr.V.H.Patil with Ms.Aasifa Khan for respondents.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 12TH JUNE, 2006.

P.C. :-

Heard the learned counsel for the petitioner. The substantive appeal has already been disposed of. In that view of the matter, the petition does not survive for want of cause of action.

2. Even otherwise, in view of the law laid down by the Apex Court while considering the para materia provision of the Central Excise Act, 1944 in the case of **Commissioner of Cus.& C.Ex., Ahmedabad V/s. Kumar Cotton Mills Pvt. Ltd**. reported in **2005 (180) E.L.T. 434 (S.C.)**, no case is made out to differ with the view taken by the Tribunal.

3. The same is thus, dismissed in limine for the reasons stated in the order.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)